

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 08-47560

ROBIN JULIUS LASENBY, and
BARBARA ANN BURNS-LASENBY,

Chapter 7

Judge Thomas J. Tucker

Debtors.

**ORDER REQUIRING DEBTORS' ATTORNEY
ROBERT D. STEIN TO REFUND
TO DEBTORS PART OF THE ATTORNEY FEES
PAID TO HIM FOR THIS CASE**

This case came before the Court the Court's show cause order filed November 17, 2008 (Docket # 30), which required Debtors' attorney Robert D. Stein to appear at a hearing on December 3, 2008 and show cause why the Court should not order him to return to the Debtors some or all of the attorney fees he received from Debtors in connection with this case, under 11 U.S.C. § 329(b). The Court held a hearing on December 3, 2008, including an evidentiary hearing. The Debtors each appeared and testified, as did attorney Stein. At the conclusion of the hearing, the Court made a partial ruling on the show cause order, and granted attorney Stein leave to file an affidavit from his former legal assistant, Shannon Berkey, no later than December 10, 2008. Mr. Stein filed such an affidavit, on December 7, 2008 (Docket # 34).

Having considered all of the evidence and arguments presented at the December 3, 2008 hearing and the Berkey affidavit filed December 7, 2008, the Court finds and concludes as follows. Neither Mr. Stein nor anyone else from his office adequately informed either of the Debtors of (1) the requirement that each of them complete an instructional course in personal financial management and (2) file a certification of such completion (Official Form B23), all by the deadline of 45 days after the first date set for the meeting of creditors (*i.e.*, no later than

Monday, June 30, 2008). *See* 11 U.S.C. § 727(a)(11); Fed.R.Bankr.P. 1007(b)(7) and (c). Nor did Mr. Stein or anyone else from his office adequately inform either of the Debtors that if they failed to meet these requirements by the deadline noted above, their bankruptcy case could be closed by the Court without a discharge, which would require Debtors to file a motion to reopen the case and pay a filing fee of \$260.00 to file such a motion, in order to obtain a discharge. As a result of the failure by Mr. Stein and his office staff to adequately inform Debtors of these things, Debtors did not complete the necessary instructional course or file Official Form B23 in a timely manner, and their Chapter 7 case was closed without a discharge, on October 14, 2008. This forced Debtors to file a motion to reopen the case and pay a \$260.00 filing fee, which they did, so that they could complete the instructional course and file the Form B23, and obtain their discharge, all of which they did.

Based on these facts, the Court finds and concludes that Debtor's attorney Robert Stein, whom Debtors paid \$1,000.00 in attorney fees for this case, has received compensation from Debtors that exceeds, by \$260.00, the reasonable value of the services he provided in this case. 11 U.S.C. § 329(b). Accordingly,

IT IS ORDERED that no later than December 22, 2008, attorney Robert D. Stein must refund to Debtors the sum of \$260.00.

IT IS FURTHER ORDERED that no later than December 23, 2008, attorney Robert D. Stein must file and serve on Debtors an affidavit verifying his full compliance with this Order, and a proof of service demonstrating his service of such affidavit on Debtors.

The Clerk will serve a copy of this Order on the Debtors, by ordinary mail.

Signed on December 13, 2008

/s/ Thomas J. Tucker

Thomas J. Tucker

United States Bankruptcy Judge